

## Minutes of the

### SPECIAL MEETING OF THE METROPOLITAN PARKS AND OPEN SPACE COMMISSION

Tuesday, July 11, 2017

#### Committee Members Present:

Tony Yarusso, Rick Theisen, Todd Kemery, Margie Andreason, Wendy Wulff, Sarah Hietpas, Bob Moeller

#### Committee Members Absent:

Mike Kopp, and Anthony Taylor

#### CALL TO ORDER

A quorum being present, Committee Chair Yarusso called the special meeting of the Council's Metropolitan Parks and Open Space Commission to order at 4:30 p.m. on Tuesday, July 11, 2017.

#### APPROVAL OF AGENDA AND MINUTES

Chair Yarusso asked for a motion to approve the July 11, 2017 Agenda. Moeller motioned and it was seconded by Kemery to approve the agenda. The **Agenda was approved.**

Chair Yarusso asked for a motion to approve the minutes of the May 2, 2017 meeting of the Metropolitan Parks and Open Space Commission. It was motioned by Kemery and seconded by Theisen. The **Minutes were approved.** Moeller abstained.

Chair Yarusso asked for a motion to approve the minutes of the June 6, 2017 meeting of the Metropolitan Parks and Open Space Commission. It was motioned by Moeller and seconded by Andreason. Moeller made a minor amendment to his comments on page 3. Andreason noted that her name was misspelled. The amended **Minutes were approved.**

#### PUBLIC INVITATION

None.

#### BUSINESS

**2017-136, Annual Metropolitan Regional Parks Operation and Maintenance Allocation - Deb Jensen** gave a PowerPoint presentation regarding the annual Regional Park Operations and Maintenance (O&M) reimbursement distribution as outlined in the materials provided. She reviewed the statutory requirements and the submitted costs.

Theisen asked why the state has never appropriated the full 40% of O&M costs as required by statute. Jensen noted the language on the second page of the report explaining the history of appropriations.

It was motioned by Moeller and seconded by Hietpas to recommend that the Metropolitan Parks and Open Space Commission report to the Metropolitan Council the requests from the ten Regional Parks Implementing Agencies for state fiscal year 2018 operation and maintenance funds, as shown in Table 1.

Chair Yarusso called for a vote. **Motion carried.**

## 2017-137, Parks Acquisition Opportunity Fund Grant for Nine Mile Creek Regional Trail, Three Rivers Park District (NSP/5309 70<sup>th</sup> Street West) - Deb Jensen

Jensen gave a presentation on the request from Nine Mile Creek Regional Trail as outlined in the staff report provided.

Kemery asked if the trail project is ready for construction. Jonathan Vlaming, Three Rivers Park District, stated that the project is complete and ready for use.

Chair Yarusso asked if there are any legal concerns because this “hybrid” easement acquisition doesn’t follow policy. Wulff recommended staff run it past the legal department before it goes to the Council.

It was motioned by Theisen and seconded by Kemery to recommend that the Metropolitan Council:

1. Approve a grant of up to \$38,687 to Three Rivers Park District to acquire an easement on a parcel at 5309 70<sup>th</sup> Street West for the Nine Mile Creek Regional Trail;
2. Authorize the Community Development Director to execute the grant agreement and restrictive covenant on behalf of the Council;
3. Consider reimbursing Three Rivers Park District for up to \$12,893 from its share of a future Regional Parks Capital Improvement Program for costs associated with acquisition of this easement; and
4. Inform Three Rivers Park District that the Council does not under any circumstances represent or guarantee that future reimbursement will be granted and expenditure of local funds never entitles a park agency to reimbursement.

Theisen asked if staff considered whether there might a possible legal challenge in the future because of the hybrid nature of the acquisition. Jensen deferred to Jonathan Vlaming from Three Rivers Park District. Vlaming stated that their interpretation is that, in the end, they had a willing seller because the settlement was achieved during the condemnation process. It is better for them to settle out of court and is considered part of the condemnation.

Jensen discussed the timing of the acquisition as it relates to the Regional Parks Policy Plan. Normally a grant for an easement acquired through condemnation would be approved prior to the closing.

Mullin noted this hybrid path to acquisition is one area we will explore in the upcoming Regional Parks Policy Plan update.

Steve Sullivan of Dakota County provided further explanation of the condemnation process.

Chair Yarusso considered a revision of the motion to make it clear we are not giving Three Rivers Park District an exception to following the Policy Plan. Wulff said we have never intended for agencies not to settle during condemnation proceedings, if possible.

Jensen noted that staff could include a statement of intent in the report to the Community Development Committee.

Steve Sullivan, Dakota County Parks explained that this process is condemnation. How you determine the value and come to closure is the question.

Chair Yarusso called for a vote. **The motion carried.**

**2017-138, Parks Acquisition Opportunity Fund Grant for Nine Mile Creek Regional Trail, Three Rivers Park District (Edina Gateway/4900 77<sup>th</sup> Street West) - Deb Jensen**

Jensen gave a presentation regarding the a different portion of the same trail outlined in the report provided.

It was motioned by Moeller and seconded by Hietpas to recommend that the Metropolitan Council:

1. Approve a grant of up to \$178,499 to Three Rivers Park District to acquire an easement on a parcel at 4900 77<sup>th</sup> Street West in Edina for the Nine Mile Creek Regional Trail;
2. Authorize the Community Development Director to execute the grant agreement and restrictive covenant on behalf of the Council;
3. Consider reimbursing Three Rivers Park District up to \$59,500 for costs associated with acquisition of this easement, from its share of a future Regional Parks Capital Improvement Program parcel; and
4. Inform Three Rivers Park District that the Council does not under any circumstances represent or guarantee that future reimbursement will be granted, and that expenditure of local funds never entitles a park agency to reimbursement.

Chair Yarusso asked why the appraisal was so high. Vlaming noted that this condemnation proceeding had been a battle and discussed the negotiation that took place.

Chair Yarusso called for a vote. **The motion carried.**

**2017-139, Parks Acquisition Opportunity Fund Grant for North Creek Greenway Regional Trail, Dakota County (Smith Property/173<sup>rd</sup> & Pilot Knob Road) - Deb Jensen**

Jensen gave a presentation on the request from Dakota County regarding a grant to fund an acquisition for North Creek Greenway Regional Trail as outlined in the materials provided.

Kemery asked if there are any plans for the trail to extend beyond the club-shaped area at the south end of the parcel. Sullivan stated there are. Currently, they are working on a portion owned by Apple Valley.

It was motioned by Hietpas and seconded by Andreason to recommend that the Metropolitan Council:

1. Approve a grant of up to \$105,368 to Dakota County to acquire the Smith parcel at 173<sup>rd</sup> Street and Pilot Knob Road in Lakeville for the North Creek Greenway Regional Trail; and
2. Authorize the Community Development Director to execute the grant agreement and restrictive covenant on behalf of the Council.

Chair Yarusso called for a vote. **The motion carried.**

## **INFORMATION**

**2017 Legislative Outcomes - Deb Jensen**

Jensen gave a presentation on the 2017 Legislative outcomes as outlined in the materials provided. She discussed the restrictions on ENRTF land and the risk of losing future appropriations if we do not have land to purchase. Staff are meeting with the LCCMR to discuss other potential uses for ENRTF funds.

Moeller stated he was thrilled to hear we actually have money to work with.

Mullin recognized a number of agencies really stepping up to testify at the Legislature and noted that he feels it made all the difference.

### **Process for Capital Improvement Plan Grant Proposal Review - Deb Jensen**

Jensen gave a report on the process for reviewing proposals for the state fiscal year 2019 Capital Improvement Program (CIP) as outlined in the materials provided. She noted that at the next meeting, each of the agencies will present their CIP projects to MPOSC. In September, the MPOSC will move their recommendations.

Marty Walsh, Carver County, thanked the Commission for this process allowing agencies to participate more. He asked for criteria to be established to consider how to re-prioritize projects, if necessary. Jensen stated that a PowerPoint template will be sent to the implementing agencies next week that will provide some guidance for framing their presentations and assisting the Commission in understanding the agencies' project selection and priorities.

Walsh stated it seems the Council will have the ability to re-prioritize and asked about the criteria to do so. Jensen discussed misunderstandings about the process of reviewing prioritizations last year and feels this year will run much smoother, in part because the Equity Toolkit was revised slightly to allow agencies to identify projects that were not specifically designed to have an equity impact. She reviewed the criteria.

Mullin discussed page 100 of the Regional Parks Policy Plan regarding the Council's role in prioritizing CIP projects. He discussed questions of equity and noted that not every project will have an equity impact.

Wulff talked about a conversation with the consultant who helped create the Toolkit. She discussed other aspects to be considered in addition to equity.

Theisen stated he assumes agencies are the best judges of how their projects ought to be prioritized unless there is a specific precise objection from the Commission or the Council.

Jensen discussed an amendment passed by the Legislature in the fiscal year 2018-2019 Legacy bill that restricted the Council's authority to re-prioritize projects through Equity Toolkit considerations. The amendment limited funding to the list of projects approved by the elected representatives of each of the agencies, which precluded re-prioritization through the Toolkit.

Moeller asked if there is a process for agencies to appeal a re-prioritization made by the Council.

Wulff stated that agencies have an opportunity to reach out to CDC and the full Council. She felt the Legislature might pass similar restrictions next year for CIP projects as they did in the past legislative session for Legacy.

Sullivan discussed agencies doing their due diligence and noted that equity is something they look at.

## **REPORTS**

**Chair:** Chair Yarusso asked for feedback from June's meeting. He has heard that narrowing the field of discussion would be helpful going forward. Commissioners agreed.

Wulff commented that we want to work together as partners.

Chair Yarusso asked for a timeline of the Regional Parks Policy Plan revision. Mullin stated we will be starting this fall and noted that Jan Youngquist will be the project manager. He added that Dan Marckel will help with public process. He noted that the public review will be in the May 2018 timeframe.

**Commissioners:** None.

**Staff:** None.

## **ADJOURNMENT**

Business completed, the meeting adjourned at 5:56 p.m.

Sandi Dingle  
Recording Secretary